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November 21, 2014

Mr. Christopher Calfee, Senior Counsel
Governor's Office of Planning and Research
1400 Tenth Street
Sacramento, CA 95814

**RE: Comments on the "Preliminary Discussion Draft for the SB 743 CEQA
Guidelines Update"**

Dear Mr. Calfee:

The Southern California Association of Governments (SCAG) would like to express our appreciation for the efforts put forth by the Office of Planning and Research (OPR) staff in developing the draft California Environmental Quality Act (CEQA) Guidelines Update, pursuant to SB 743 and thank you for the opportunity to provide comments.

As the Metropolitan Planning Organization, representing six counties and 191 cities, SCAG is responsible for implementing SB 375 in our region. In April 2012, SCAG's Regional Council adopted the 2012-2035 Regional Transportation Plan/Sustainable Communities Strategy, a transformational plan for Southern California. Since that time the Regional Council has made expediting the implementation of this plan a top priority and modernizing CEQA is one of many tools needed to achieve this goal. However, as reflected in comments from our many members, partners and stakeholders in our region, the proposal in the current Preliminary Discussion Draft, may have unintended consequences, increasing burdens to our member jurisdictions and delaying project implementation.

SCAG recognizes the importance that SB 743 could provide for effective implementation of SB 375. The new exemption created by SB 743 for certain projects that are consistent with an adopted Specific Plan, and the elimination of the need to evaluate aesthetic and parking impacts of a project, in some circumstances, will further the objectives of SB 375. Similarly, the development of a new metric, if providing flexibility and accounts for the diversity of our region, could also facilitate SCS implementation to promote the reduction of greenhouse gases and the development of multi-modal networks.

OPR's extensive outreach efforts, which most recently included a well-attended stakeholder meeting at the SCAG offices on October 28, 2014, provided our stakeholders the opportunity to gain a better understanding of the Preliminary Discussion Draft and to offer timely and meaningful input. We appreciate the responsiveness of OPR staff to hear and engage our stakeholders in meaningful discussions. However, there have been many concerns raised by our member jurisdictions that the Guidelines update could have unintended consequences.

The Regional Council consists of 86 elected officials representing 191 cities, six counties, six County Transportation Commissions, one representative from the Transportation Corridor Agencies, one Tribal Government representative and one representative for the Air Districts within Southern California.

Below is a summary of major concerns raised by our stakeholders:

- Timing of Implementation
 - Need for pilot/case studies prior to full implementation
 - Different timeframes for implementation should be considered for TPAs (Transit Priority Areas) and non-TPA areas
 - Provide further guidance including flexibility on new metric(s) other than vehicle miles traveled (VMT) for areas outside the TPAs
- Thresholds
 - Should be at discretion of the lead agency
 - Regional average may not be the most suitable baseline in all cases/areas
- Added Burden/Litigation Risk
 - Presumptive mitigation

Based on SCAG staff's review of OPR's "Preliminary Discussion Draft for the SB 743 CEQA Guidelines Update", as well as the comments from our stakeholders, we recommend the following:

Timing of Implementation

1. Pursue a case study approach within selected TPAs to better inform the Guidelines development.

Currently, there is a lack of experience in applying VMT-based metrics for transportation impact analysis at the project level. The case study approach will establish a solid base of empirical knowledge and best practices prior to the implementation of the Guidelines within TPAs. The results of these case studies will be an excellent learning opportunity to further inform the draft Guidelines prior to full implementation. We appreciate OPR staff's acknowledgment of the likely benefits of such an approach. In addition, we would also suggest that results of implementing VMT-based metrics within TPAs should be evaluated after the first two to three years of implementation.

2. Provide further guidance including flexibility for new metric(s) other than VMT for areas outside the TPAs in a deliberative way.

While TPAs generally share some common characteristics, areas outside the TPAs have much wider diversity and complexity. Those non-TPA areas range from urban, suburban or rural areas. Accordingly, a single metric such as VMT-based may not be appropriate for all areas outside TPAs. We recommend OPR to provide guidance including flexibility on the new metric(s) for areas outside the TPAs in a deliberate way. Also additional case studies should be conducted for projects outside of TPAs, considering different development context, composition and scale, to inform the Guidelines development for projects outside the TPAs.

Thresholds

1. Clarify that the specific threshold of significance shall be established at the discretion of the lead agencies.

The Preliminary Discussion Draft recommends using a regional average as the threshold of significance. While SB 743 requires OPR staff to provide guidance on setting the threshold, the CEQA Guidelines update should make it explicitly clear that the specific threshold of significance shall be established at the discretion of the lead agencies. We appreciate the fact that OPR staff acknowledged such during our stakeholders meetings and look forward to this clarification in the next version of the Draft Guidelines.

Added Burden/Litigation Risk

1. Provide guidance on mitigation measures in a different format.

SCAG staff recommends removing from the proposed Guideline Update the list of potential mitigation measures and project alternatives. Further, the VMT-based approach may significantly broaden the scope of potential mitigation measures from those used under the LOS (Level of Service) -based approach which tends to focus narrowly on roadway widening improvements. Many potential mitigation measures under the VMT-based approach are not well understood as to their effectiveness. OPR should support additional studies to provide further guidance on the effectiveness of mitigation measures. Better understanding and documentation of the effectiveness of mitigation measures will also help to further reduce litigation risks for lead agencies and facilitate SB 743 implementation.

2. Provide additional language to minimize unintended litigation risks for local governments.

For example, with the new VMT-based metrics, local governments may face litigation risks if they continue to assess traffic impact fees based on the LOS approach. OPR should provide additional language in the CEQA Guidelines Update to minimize those unintended litigation risks.

SCAG looks forward to continuing to assist OPR in the development of the CEQA Guidelines Update pursuant to SB 743 to ensure that the update does not create undue burdens to our member jurisdictions or delays in project implementation. Please keep us apprised of the status of this initiative, and let us know of any means by which we may be able to further assist OPR staff, including providing assistance in conducting case studies within the SCAG region.

Mr. Christopher Calfee
Governor's Office of Planning and Research
November 21, 2014
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If you have any questions, please contact Ms. Huasha Liu, Director, Land Use and Environmental Planning, at (213) 236-1838.

Regards,

A handwritten signature in blue ink, appearing to read "Hasan Ikhata", with a stylized flourish at the end.

Hasan Ikhata
Executive Director